

# EXHIBIT 33

EXHIBIT 33

**DONOVAN HATEM LLP**  
*counselors at law*

Thomas D. Duquette  
(617) 406-4647 direct  
tduquette@donovanhate.com

August 12, 2022

**Via Certified Mail to:**

Brent Martin  
Martin Partners Architecture + Design LLP  
5040 Geary Blvd.  
San Francisco, CA 94118  
Cert. No.: 7003 1680 0000 2535 4709

Northwest Registered Agent Service, Inc.  
for Martin Partners Architecture + Design  
82 Wendell Ave, Suite 100  
Pittsfield, MA 01201  
Cert. No.: 7003 1680 0000 2535 4723

Re: *Berylson, et al., v. 1100 Architect, P.C., et al.*  
Civil Action No.: 21-CV-10527-RGS  
DH File No.: 24410.01089  
**38+44 Highgate Cease and Desist Letter to Martin Partners Architecture**

Dear Mr. Martin:

Please be advised that we represent 1100 Architect, P.C. ("1100") and its principal David Piscuskas, FAIA ("Piscuskas") in connection with a dispute between our clients and John and Amy Berylson (collectively, "the Berylsons") related to 1100's unpaid design services rendered on behalf of the Berylsons for their home at 38 and 44 Highgate, Wellesley, Massachusetts (the "Project"), and the litigation arising therefrom. As you likely are aware, 1100 entered into an agreement dated July 6, 2016 ("Agreement") with the Berylsons to perform architectural services on the Project, and has not been paid the full fee due per the Agreement. Furthermore, on February 17, 2021, 1100 noticed the suspension, then termination of the Agreement for nonpayment under Article 9.1 of the Agreement, effective March 4, 2021. (See the enclosed correspondence of February 17, 2021 and March 4, 2021.)

Under Article 7.2 of the Agreement, 1100's termination of services for nonpayment under Article 9.1 operates to terminate the Berylsons' license to use 1100's Instruments of Service in connection with the Project (both as defined in the Agreement). In addition, 1100 registered the Instruments of Service with the United States Copyright Office. (See the enclosed June 17, 2021 Certificate of Registration.) The use and copying of the Instruments of Service are violations of 1100's intellectual property rights, violations of the Agreement with the Berylsons, and violations of U.S. Copyright law.

Accordingly, 1100 has requested the Berylsons to make immediate arrangements to return to 1100 any and all electronic or hard copies of 1100's Instruments of Service, including but not limited to those possessed by the Berylsons, their project representative, their builder, and any subcontractor. The Berylsons have refused to do so. We understand that you, along with architect Marc Newman, have

assumed responsibility for the Project design along with Lee F. Mindel, P.L.C d/b/a SheltonMindel. As a design professional, we expect you will appreciate 1100's intellectual property rights and honor them. Therefore, we hereby request that you immediately cease and desist from further use of 1100's Instruments of Service and return any copies of the Instruments of Service in your possession (including electronic) to the undersigned counsel.

Please confirm your intent to comply with this request, and do not hesitate to contact me if you would like to discuss this matter in further detail.

Thank you.

Sincerely,



Thomas D. Duquette, Esq.  
TDD/

Enclosures/Attachments

cc: Via Email Only To:

William S. Rogers, Jr.  
[wsrogers@princelobel.com](mailto:wsrogers@princelobel.com)  
Christopher Miller  
[cmiller@princelobel.com](mailto:cmiller@princelobel.com)  
Matthew Madden  
[mmadden@princelobel.com](mailto:mmadden@princelobel.com)  
Lauren M. Koslowsky  
[lkoslowsky@princelobel.com](mailto:lkoslowsky@princelobel.com)  
Jim Peloquin  
[jpeloquin@connkavanaugh.com](mailto:jpeloquin@connkavanaugh.com)  
Jack Van Horne  
[jvh@reeveandvanhorne.com](mailto:jvh@reeveandvanhorne.com)  
David Piscuskas  
[dp@1100architect.com](mailto:dp@1100architect.com)

4859-7415-5822, v. 1



James B. Peloquin, Partner  
617-348-8205  
jpeloquin@connkavanaugh.com

February 17, 2021

Via e-mail and first-class mail

William S. Rogers Jr., Esq.  
Prince Lobel Tye LLP  
One International Place, Suite 3700  
Boston, MA 02110

Via e-mail and first-class mail

Jonathan Grippo, Esq.  
Goulston Storrs  
885 Third Avenue, 18<sup>th</sup> floor  
New York, NY 10022

RE: Notice of Suspension of Services and Termination of Agreement  
1100 Architect, P.C./John and Amy Berylson

Dear Counsel:

We have been retained by 1100 Architect, P.C. ("1100") in connection with this matter, with which you are quite familiar. Reference is made to a certain agreement dated July 6, 2016 by and between Amy and John Berylson ("Berylson") and 1100 ("Agreement"). As you know, 1100 has not been paid for its work on this project since February 4, 2020, more than one year ago. Today, under separate cover, but incorporated herein by reference, we have filed a Demand for Arbitration pursuant to Articles 7.2 and 8.1.4 of the Agreement. This notice is given pursuant to Article 9.1 of the Agreement, which reads in pertinent part as follows:

**ARTICLE 9 TERMINATION OR SUSPENSION**

§ 9.1 If the Owner fails to make undisputed payments to the Architect in accordance with this Agreement, after the Architect provides the Owner with written notice of such failure and the Owner fails to make payment within fifteen (15) days of such notice, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven (7) days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses directly, reasonably and necessarily incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

On October 19, 2020, you previously were advised that Berylson was in substantial breach of the Agreement due to non-payment for services rendered. As provided in Article 9.1, you are hereby notified that 1100 shall suspend services on this project seven days from today. Moreover, in 15 days, the Agreement shall be terminated unless Berylson cures the non-payment in its entirety.

In connection with this notice and the related arbitration demand, please note that the license granted in Section 7.2 of the Agreement shall terminate and, if necessary, we will seek injunctive relief to protect 1100's intellectual property.

I am providing this notice to you in your capacity as counsel to Berylson. If for any reason you wish me to send it directly to your clients, please let me know immediately.

February 17, 2021  
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Please do not hesitate to contact me if you would like to discuss this matter in further detail.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JBP' followed by a horizontal line.

James B. Peloquin

JBP/mjd

cc: David Piscuskas  
John L. Van Horne III, Esq.  
Christopher K. Sweeney, Esq.

2721825.1 04217.000



James B. Peloquin, Partner  
617-348-8205  
jpeloquin@connkavanaugh.com

March 4, 2021

*Via e-mail and first-class mail*

William S. Rogers Jr., Esq.  
Prince Lobel Tye LLP  
One International Place, Suite 3700  
Boston, MA 02110

*Via e-mail and first-class mail*

Jonathan Grippo, Esq.  
Goulston Storrs  
885 Third Avenue, 18<sup>th</sup> floor  
New York, NY 10022

RE: Notice of Suspension of Services and Termination of Agreement  
1100 Architect, P.C./John and Amy Berylson

Dear Counsel:

This follows on my correspondence of February 17, 2021, which is specifically incorporated by reference herein. At close of business today, fifteen (15) days will have passed since our February 17, 2021 Notice of Suspension of Services and Termination of Agreement. Accordingly, at close of business today, 1100 Architect, P.C. ("1100") is terminating its services under the July 6, 2016 agreement with your clients, John and Amy Berylson ("Agreement"), pursuant to Article 9.1 thereof, and as per our February 17, 2021 notice. As you know, 1100 has not been paid for services for over a year, and nothing has changed in the past fifteen (15) days.

Additionally, under Article 7.2 of the Agreement, 1100's termination of services for non-payment under Article 9.1 operates to terminate your clients' license to use 1100's Instruments of Service in connection with the Project (both as defined in the Agreement). Accordingly, please make immediate arrangements to return to 1100 any and all electronic or hard copies of 1100's Instruments of Service, including but not limited to those possessed by your clients, their project representative, their builder, and any subcontractor. Additionally, please confirm in writing that all of those associated with the Project shall cease and desist from further use of 1100's Instruments of Service.

I am providing this notice to you in your capacity as counsel to Amy and John Berylson. If for any reason you wish me to send it directly to your client, please let me know immediately. Please do not hesitate to contact me if you would like to discuss this matter in further detail.

Very truly yours,

A handwritten signature in dark ink, appearing to read "J. B. Peloquin", with a long horizontal line extending to the right.

James B. Peloquin

JBP/mjd

cc: David Piscuskas (via email)  
John L. Van Horne III, Esq. (via email)  
Christopher K. Sweeney, Esq.

## **EXHIBIT A**

## Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Shira Perlmuter*  
United States Register of Copyrights and Director

Registration Number

**VAu 1-434-143**

Effective Date of Registration:

June 17, 2021

Registration Decision Date:

June 17, 2021

### Title

Title of Work: House-on-Highgate, Wellesley MA

### Completion/Publication

Year of Completion: 2019

### Author

• Author: 1100 Architect, P.C.  
Author Created: architectural work  
Work made for hire: Yes  
Citizen of: United States

### Copyright Claimant

Copyright Claimant: 1100 Architect, P.C.  
550 Seventh Ave, 22nd Floor, New York, NY, 10018, United States

### Rights and Permissions

Organization Name: 1100 Architect, P.C.  
Name: David Piscuskas  
Email: contact@1100architect.com  
Telephone: (212)645-1011  
Address: 550 Seventh Ave  
22nd Floor  
New York, NY 10018 United States

### Certification

Name: David Piscuskas